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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

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R. WAYNE KLEIN,

Plaintiff,

v.

CONNIE C. PATTERSON,

Defendant.

**ORDER**

Case No. 2:11-cv-723-CW

Judge Clark Waddoups

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This case was assigned to United States District Court Judge Clark Waddoups, who then referred it to United States Magistrate Paul M. Warner under 28 U.S.C. § 636(b)(1)(B). On December 21, 2012, Judge Warner issued a Report and Recommendation addressing a Motion for Judgment on the Pleadings filed by plaintiff R. Wayne Klein. Mr. Klein is a court-appointed Receiver. Defendant Connie C. Patterson did not file an objection to the Report and Recommendation. Instead, she file a Non-negotiable Notice of Acceptance and Notice of Dishonor, which the court construes as a response to the Report and Recommendation. Neither document, however, states a legal basis for opposing the Report and Recommendation. *See* Dkt. Nos. 62 and 63.


Despite moving for judgment on the pleadings and Judge Warner issuing a recommendation to grant the motion, Mr. Klein filed a motion for summary judgment on February 11, 2013. In the complaint and motion for judgment on the pleadings, Mr. Klein asserted damages in the amount of *at least* \$1,000,762.54. In the motion for summary judgment, Mr. Klein increased the claim for damages to \$1,472,425.96 based on newly discovered evidence of alleged fraudulent transfers. *See*

Statement of Facts, ¶ 6 (Dkt. No. 70). Ms. Patterson again filed a Non-negotiable Notice of Acceptance and a Certificate of Dishonor. Notably, neither document refutes the new claim for damages or places material facts in dispute.

Accordingly for good cause appearing the court hereby APPROVES AND ADOPTS the legal analysis in Judge Warner's Report and Recommendation,<sup>1</sup> but DENIES AS MOOT the Motion for Judgment on the Pleadings<sup>2</sup> because it has been superseded by the damage claim in the summary judgment motion. The court GRANTS the Motion for Summary Judgment<sup>3</sup> and enters judgment against Ms. Patterson in the amount of \$1,472,425.96, together with prejudgment interest calculated from the time of the respective fraudulent transfers to Ms. Patterson until entry of this order. Mr. Klein shall submit briefing on the prejudgment interest calculation and a proposed form of judgment on or before **August 2, 2013**.

SO ORDERED this 16<sup>th</sup> day of July, 2013.

BY THE COURT:

  
Clark Waddoups  
United States District Judge

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<sup>1</sup> Dkt. No. 61.

<sup>2</sup> Dkt. No. 29.

<sup>3</sup> Dkt. No. 64.